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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,257	05/08/2001	Shawn Thayer Huxel	ETH-1554	2990

27777 7590 08/12/2003  
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EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3738

11

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/851,257

Applicant(s)

HUXEL ET AL.

Examiner

Alvin J Stewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-4, 6, 7, 9, 12, 14-17, 19, 20, 22, 25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Murayama et al US Patent 6,423,085 B1.

Murayama et al discloses a biodegradable coil comprising a soft elongated member and a polymeric outer coating on the surface of the member. The polymer is made of lactide, glycolide, polyacrylamides, polyethylene oxide, etc. The member is made of fabric strands, such as Dacron. The member is non-absorbable and can be made also of radio-opaque material (see col. 2, lines 20-37; col. 3, lines 49-55 and col. 4, lines 21-39).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5, 8, 10, 11, 13, 18, 21, 23, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al US Patent 6,423,085 in view of D'Alessio et al US Patent 5,674,286.

Murayama et al discloses the invention substantially as claimed. However, Murayama et al does not disclose a monofilament coil, a bioabsorbable filament, a transition temperature and a polymeric coating having polyamide.

D'Alessio et al teaches a coil having a plurality of filaments or only one filament for the purpose of reinforcing the implant, bioabsorbable filaments, and a glass transition temperature.

Regarding claims 5 and 18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the yarns of the Murayama et al reference with the filament of the D'Alessio et al reference in order to have a different design.

Regarding claims 8 and 21, see col. 1, lines 46-67 and col. 2, lines 1-35.

Regarding claims 10, 11, 23 and 24, see col. 4 and col. 5.

Regarding claims 13 and 26, it is well known in the art the use of the polymer polyamide for the purpose of inserting medical devices inside the body lumen.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-27 have been considered but they are not persuasive.

The Applicant traverse the Examiner's rejections by disclosing that the Murayama reference fails to disclose a stent having a rigid helical structure made from a filament that initially is soft and flexible. Murayama further fails to disclose a filament that has been coated

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with a polymer such that the polymer coating maintains the soft member in the relatively rigid helical structure and then degrades upon placement in the body.

With respect to the above arguments, the Examiner disagrees with the above remarks. Murayama et al clearly discloses an implant having a filament made of fabric strands, such as Dracon, coated with a trombin solution (see col. 2, lines 30-37). Additionally, the above coating can be enhanced by applying a bioabsorbable polymer, such as polyglycolic acid, polyglycolic/poly-L-lactic acid copolymers, etc. (see col. 4, lines 26-31). This enhanced polymeric coatings are the same coatings used by the Applicant's invention. For the above reasons the Examiner maintains the above rejections.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
AST

August 11, 2003

  
David H. Willse  
Primary Examiner